

GIBSON IN FLURRY AS STATE SUDDENLY RESTS

Caught Napping, He Confesses He Hasn't Even Subpoenaed Some Witnesses.

DEFENCE EXPLAINS CASE

Death Accidental and Due to Any of Half Dozen Causes—Not Time for Strangulation.

[By Telegraph to The Tribune.]
Newburg, N. Y., May 26.—With the presentation of testimony designed to show a motive for the murder of Mrs. Rosa Menchik Szabo, and directly after three medical experts had asserted her death was caused by strangulation, the prosecution suddenly rested at 5:20 o'clock this afternoon in the trial of Burton W. Gibson.

All calculations were upset by the District Attorney's unexpected move. Even the lawyers for the defence were caught unawares and pleaded for an extension of time when Justice Arthur S. Thompson told them that they would have to open their case tonight. The justice, however, would not tolerate any delay.

When court reconvened at 7:30 o'clock this evening Harry Kohl, of counsel for Gibson, opened the defence, asserting he would prove that Mrs. Szabo's death was accidental. The defence would produce witnesses, he said, to prove that Mrs. Szabo's death could have resulted from any one of six or seven causes. They would also show, he said, that in the five seconds in which, according to the prosecution's witness, John Minturn, the occurrence on Greenwood Lake took place, Mrs. Szabo's death could not have been caused by strangulation.

Mr. Kohl said no testimony would be introduced except such as would be required to meet the issue presented by the people that Mrs. Szabo was killed by strangulation.

When Kohl closed Gibson arose and requested the court to allow him more time to confer with his counsel. He said he wanted to go over a number of papers jointly with his lawyers, that a number of his witnesses had not been subpoenaed and that he was not prepared to go ahead with his case.

The court granted his request, but directed the defendant to be prepared to continue with the trial Tuesday morning. The court adjourned.

This afternoon the prosecution in quick succession put on the stand the three experts who were present when the autopsy on Mrs. Szabo's body was performed. All agreed that death resulted from strangulation caused by outward pressure, upward and backward from the outside. This had the effect, the experts testified, of pressing down the epiglottis, fixing it permanently, so that the respiratory organs were absolutely stopped.

Testimony showing Gibson's movements following the death of Mrs. Szabo, with a view to proving his motive in putting her out of the way was to get possession of her \$10,000, was given by several witnesses.

John Minturn, the son of the Greenwood Lake storekeeper, who is supposed to have been an eyewitness of Mrs. Szabo's death on July 16, became confused under cross-examination, but stuck to the essential points of his story that there was a struggle in the boat and both occupants went over the same side.

ANGRY GERMAN SCULPTOR HERE ABOUT NAKED TRUTH

Kaiser's Friend Says He'll Take the St. Louis Statue Matter to The Hague.

Herr Wilhelm Wanderscheider, the noted German sculptor, who was recently awarded first prize for his design of the St. Louis memorial to Pretorius, Schurz and Danzer arrived here yesterday from Antwerp by the Lapland. He was not in a happy mood, for he had been informed by wireless telegraph that the award had been rescinded and that all designs would be reconsidered.

Herr Wanderscheider's figure of a nude woman called "The Naked Truth" did not appeal to Adolphus Busch, the brewer, who had contributed \$20,000 of the total subscription of \$30,000.

Mr. Busch said that if "The Naked Truth" was accepted by the award committee he would withdraw his contribution. These facts were cable to Herr Wanderscheider, in Berlin, but he had already sailed for America.

The sculptor, who is a close friend of the German Emperor, was so angry over the action of Mr. Busch that he boarded the first available train for St. Louis yesterday. He said he would get that contract or its equivalent in cash if he had to seek justice in all the courts of the United States and Germany, and falling in this he would take the matter to The Hague.

RIVER VICTIM IDENTIFIED

Man Drowned at Nyack Was R. C. Campbell, of New York.

[By Telegraph to The Tribune.]
Nyack, N. Y., May 26.—Daniel G. Opera, manager of the De Koven Opera Company, identified today the man found drowned in the Hudson River, off Nyack, last Saturday, as Robert C. Campbell, once manager of the Ringling shows and well known as a member of a theatrical troupe. Campbell, a partner, also identified the body. Mr. Campbell was sixty years old and lived with his wife, daughter and son in Riverside Drive, New York City. A married daughter lives in London, and another son is at school in Paris.

Mr. Arthur said he could not account for his friend's death. He thinks Campbell drowned a night boat and fell overboard. He had no business troubles, Mr. Arthur said, and his home life was happy. He was a thirty-second degree Mason.

MICHAEL SHILLITONI INDICTED

Father of Policemen's Slayer Charged with Murder.

Michael Shillitoni, whose son Oreste is charged with killing Patrolmen Teare and Heaney and John Rizzo, was indicted for murder in the first degree yesterday. He pleaded not guilty before Judge Swann. His indictment was found upon the testimony of Nellie Di Carlo, a sixteen-year-old girl, who said that shortly before the shooting she saw Michael hand a revolver to his son.

Information reached the District Attorney's office yesterday that Oreste had been seen in a construction camp on the Erie Railroad.

BURTON W. GIBSON.
Sketched in court at Newburg by a Tribune artist.



SAVES WOMAN AND NURSE FROM DEATH IN POND

Morristown Man Rescues "Rescuer" and Then Baffles Patient's Suicide Attempt.

[By Telegraph to The Tribune.]
Morristown, N. J., May 26.—An inmate of the State Hospital at Greystone Park, who attempted to end her life, and her attendant were saved from drowning this afternoon in Jaspis Pond at Morris Plains by Thomas Moreland, of this town.

Mrs. Clark Mengie, a private patient and wife of a Union Hill physician, straggled to the pond. Mrs. Mengie exclaimed that she had lost her glove, and, darting away from Miss Shannon, her attendant, dove into the pond.

Miss Shannon screamed and plunged in after her. The nurse, in water up to her chin, was about to collapse when Moreland grabbed her. He carried her to shore and then went after Mrs. Mengie, who was submerged about eighteen feet from land.

Moreland brought Mrs. Mengie to the surface, and with difficulty swam with her to the bank. She was unconscious, but in twenty minutes was revived by Moreland and John P. Lyons, with whom he was driving when attracted by the cries of the nurse.

INSISTS MAN IS ROSTROM

Vogt Asserts Aphasia Patient Is Surely Naval Officer.

Edward Vogt, of Newark, who wrote to officials of the Minnesota State Hospital, at Rochester, Minn., that the mysterious "Richard Roe," who had been a patient, suffering from aphasia, for six years, was Lieutenant Jacob C. Rostrom, of the United States Navy, stuck to his story yesterday.

Vogt, who lives at No. 76 Niagara street, Newark, is employed in the R. Neumann Company's factory, at No. 5 St. Francis street. He says he worked for two years and a half as a vice hand under Lieutenant Rostrom. Rostrom went ashore at Matanzas, Cuba, during an engagement there in the Spanish war, Vogt says, and when he returned to the ship with his head swathed in bandages he, Vogt, was among those who cheered him.

The picture of "Richard Roe" that he saw in a Newark paper was unmistakably that of his former officer, Vogt asserts. Rostrom's home, according to Vogt, is in Baltimore.

GEN. SICKLES RISKS FIRE

Smoke Routs Others, but He Sits at Window.

General Daniel E. Sickles refused to leave his home, No. 23 Fifth avenue, early yesterday morning during a fire in the coal vault in the cellar. The smoke forced other tenants from the building, which is of four stories, but the general, saying smoke could not scare him, sat at an open window until the fire was put out.

The blaze was discovered by a patrolman about 5 o'clock. After sending in an alarm he returned to the house and warned the tenants.

Firemen Cunningham and Hansky, of Engine Company 72, were overcome by smoke while working in the cellar and were carried to the street. The loss is about \$100.

NEW 'FRISCO BONDS

Railroad Asks Permission to Issue \$7,000,000.

St. Louis, May 26.—The "Frisco" lines have made application to the Missouri Public Service Commission for permission to issue \$7,000,000 of improvement and extension bonds. A hearing on the application will be held on Wednesday.

At the offices of Speyer & Co., the "Frisco" bankers, nothing was known of the proposed issue of bonds, as outlined in the above dispatch. B. P. Yoakum, chairman of the board of directors, could not be seen at his office yesterday, but it is believed that the new bonds, if issued, will provide for the road's immediate requirements and still leave a surplus for much needed improvements.

TO SEE GREAT PARK PICTURE

The Board of Estimate this morning will see from a drawing how Riverside Park will appear eventually if all the projects planned for its beautification are carried out. In little more than a week the drawing has been executed by a Chicago artist, E. Fottet, who has been at work in the Park Department offices in the Arsenal in Central Park. The picture is about five feet deep and pen picture or more feet long and includes a reproduction of the area between 72d street and 129th street.

"I think it an excellent piece of work," said Commissioner Stover yesterday, "and it ought to convince the members of the board and the public at large."

SULZER MAKES RILEY STATE PRISONS' HEAD

Acts on Attorney General's Opinion, and Clinton County Judge Takes the Office.

RATTIGAN LANDS AT LAST

Man Scott Refused to Appoint Made Warden of Auburn and George W. Blake Named for Chief Clerk.

[By Telegraph to The Tribune.]
Albany, May 26.—Governor Sulzer appointed today County Judge John R. Riley, of Clinton County, as State Superintendent of Prisons. The appointment follows the opinion of Attorney General Carmody that the Governor had the right to fill the office during the recess of the Legislature because of the failure of Herman Ridder, of New York, to qualify, but his right to appoint Judge Riley is questioned. The Governor sent his name to the Senate for the office of State Superintendent of Prisons, and in the last week of the session he was rejected. In view of that fact some at the capital held that the appointment of Judge Riley now is an evasion, if not an actual violation, of the constitution, which states that the "Superintendent of State Prisons shall be appointed by the Governor by and with the consent of the Senate."

It is said that as Judge Riley was rejected by the Senate, his appointment now is without the consent of that body. The question could be tested in the courts by an action brought by a taxpayer, by the State Controller before paying any of the new superintendent's salary or by any person against whom he acted.

Judge Riley has accepted the appointment and has already resigned as county judge of Clinton County. He took the oath of office this afternoon and further qualified by placing himself under a bond of \$25,000.

Governor Sulzer appointed Nathan T. Hewitt, of Keeseville, to succeed Superintendent Riley as county judge. The new judge was Democratic candidate for the Assembly from Clinton County in 1911.

One of Superintendent Riley's first acts was to appoint George W. Blake to the \$4,000 office of clerk of the Prison Department. Blake, at the request of Governor Sulzer, has been conducting an investigation into the state prisons and was prominently mentioned as a candidate for the superintendency.

The new superintendent then accepted the resignation of George W. Benham as warden of Auburn prison and appointed Charles F. Rattigan to succeed him. The refusal of ex-Superintendent Joseph H. Scott to remove Benham and name Rattigan, who is a protégé of Thomas Mott Osborne, is what caused the break between Scott and the Governor and eventually the removal of the former on charges. Since Scott got out of the department it has been run by Owen L. Potter, the Governor's pardon clerk, as acting superintendent.

The difficulties in the prison department caused Benham to resign more than two months ago. Governor Sulzer refused to accept his resignation, and as he was under bond he was obliged to serve until his successor was appointed. In the mean time Benham had been appointed treasurer of a new trust company in Auburn and was unable to accept the place. Up to today he had constantly sent requests to the Governor to free him from the wardenship which Sulzer seemed so anxious to take away from him three months ago. The office of warden of Auburn Prison pays \$3,500 a year and maintenance, and that of Superintendent of Prisons \$6,000 a year.

George W. Blake, as chief clerk, takes the place left vacant by the removal of John T. McDowell, who was ousted following the Scott removal, after he had declared that the Governor could "go to hell."

The Governor disposed of more than one hundred bills this afternoon. In an omnibus veto was the measure which would have allowed the board of claims to determine and approve the claims of the depositors and creditors of the failed Union Bank of Brooklyn. Had the Governor approved this bill the state might have been called on to make good about \$300,000 which the depositors of the Union Bank lost through its failure.

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WON'T SPOIL THE HOODOO

Pupils Against Changing Commencement Date from June 13.

Sussex, N. J., May 26.—Thirteen seniors of the high school here regard themselves as singularly favored of fortune because they are to receive their diplomas on Friday, June 13, in the year 1913. The combination is something that could not be beaten again in centuries, they declare, and they are tickled mightily at the prospect.

Their elders are sadly shaking their heads though and predicting dire disaster for their offspring. They tried to get the Board of Education to change the date of graduation, but the board put it up to the pupils, who vigorously opposed the change.

"It is such a perfectly complete hoodoo," said a girl member of the class to-day, "that we wouldn't think of letting anything interfere with it. If the thirteen influence goes straight through, the charm will be twisted and it will mean the best of good luck for us all."

TRIP TO NEGLECTED GRAVES

Elmhurst Residents Will Visit Early Settlers' Tombs.

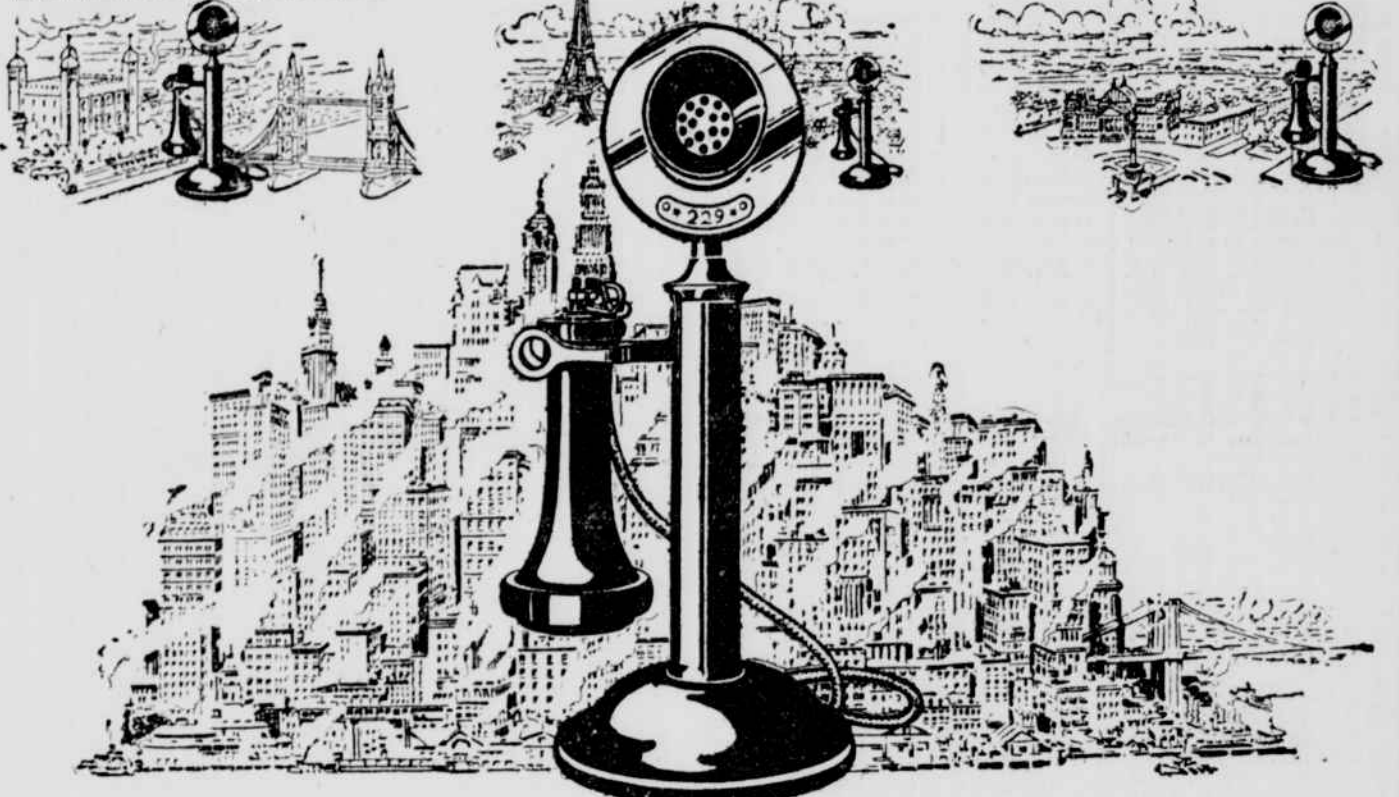
Several residents of Elmhurst, Long Island, have agreed to decorate many long neglected graves of historic interest on Friday for the first time in half a century. These graves are in an abandoned cemetery at Justice and Toledo streets, Elmhurst. There has not been a burial there since the Civil War, and practically no care has been taken of the cemetery. The graves contain the original settlers of Newtown, now known as Elmhurst.

It is also being planned to petition Borough President Connolly of Queens to have the cemetery cared for by the city. The burial place consists of three-quarters of an acre. Many Revolutionary soldiers are said to lie there. The grave-stones and marble slabs have fallen and some have crumbled away. On many the inscriptions are undecipherable. Probably the oldest stone is one bearing the following inscription: "T. M. Dyd 3 Jan. 1768." There are many eighteenth century dates on other stones.

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